A Listing of Civil Rights Laws and Cases

A. Laws

1. Emancipation Act (April 1862)
2. Amendment Thirteen to the U.S. Constitution (1866)
3. Civil Rights Act (1866)
4. Amendment Fourteen to the U.S. Constitution (1868)
5. Amendment Fifteen to the U.S. Constitution (1870)
6. Civil Rights Act (1871)
7. Civil Rights Act (1957)
8. Civil Rights Act (1964)
9. Voting Rights Act (1965)
10. Equal Employment Opportunity Act (1972)
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B. Cases

13. *Dred Scott v. Sandford,* 60 U.S. 393 (1856)
14. *United States v. Reese,* 92 U.S. 214 (1876)
15. *Plessy v. Ferguson,* 163 U.S. 537 (1896)
16. *Smith v. Allwright,* 321 U.S. 649 (1944)
17. *Shelley v. Kraemer,* 334 U.S. 1 (1948)
18. *Brown v. Board of Education,* 347 U.S. 483 (1954)
19. *Brown v. Board of Education,* 349 U.S. 294 (1955)
20. *Griggs v. Duke Power Company,* 401 U.S. 424 (1971)
21. *Ward's Cove Packaging Company v. Antonio,* 490 U.S. 642 (1989)
22. *Richmond v. J.A. Croson Co.,* 488 U.S. 469 (1989)
23. *Adarand Constructors Inc. v. Pena,* 515 U.S. 200 (1995)

C. Cases Summaries

This portion of Section 3 lists significant civil rights cases decided by the U.S. Supreme Court and contains excerpts from the syllabus of each case or from the case itself.

1. Dred Scott v. Sandford, 60 U.S. 393 (1856)

Dred Scott, is not a citizen of the State of Missouri, as alleged in his declaration, because *397 he is a negro of African descent; his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.

The question is, whether the descendants of such slaves, when they shall be emancipated, or who are born of parents who had become free before their birth, are citizens of a State, in the sense in which the word citizen is used in the Constitution of the United States.

The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate *405 and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

It is not the province of the court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted.

Consequently, no State, since the adoption of the Constitution, can by naturalizing an alien invest him with the rights and privileges secured to a citizen of a State under the Federal Government, although, so far as the State alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the *406 rights and immunities which the Constitution and laws of the State attached to that character.

But there are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.

2. *United States v. Reese,* 92 U.S. 214 (1876)

A state law which provides that one of the qualifications of an elector shall be the payment of a capitation tax is not in contravention of the fifteenth amendment, as it does not discriminate against any person on account of race, color, or previous condition of servitude.

Indictment . . . [was] against two of the inspectors of a municipal election in the State of Kentucky, for refusing to receive and count at such election the vote of William Garner, a citizen of the United States of African descent.

The principal question . . . [is] whether the act under which the indictment is found can be made effective for the punishment of inspectors of elections who refuse to receive and count the votes of citizens of the United States, having all the qualifications of voters, because of their race, color, or previous condition of servitude. If Congress has not declared an act done within a State to be a crime against the United States, the courts have no power to treat it as such.

If citizens of one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment, there was no constitutional guaranty against this discrimination: now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude.

Within its legitimate sphere, Congress is supreme, and beyond the control of the courts; but if it steps outside of its constitutional limitations, and attempts that which is beyond its reach, the courts are authorized to, and when called upon in due course of legal proceedings, must, annul its encroachments upon the reserved power of the States and the people.

To limit this statute in the manner now asked for would be to make a new law, not to enforce an old one. This is no part of our duty.

We must, therefore, decide that Congress has not as yet provided by 'appropriate legislation' for the punishment of the offence charged in the indictment; and that the Circuit Court *222 properly sustained the demurrers, and gave judgment for the defendants.

3. *Plessy v. Ferguson*, 163 U.S. 537 (1896)

Petitioner was a citizen of the United States and a resident of the state of Louisiana, of mixed descent, in the proportion of seven-eighths Caucasian and one-eighth African blood; that the mixture of colored blood was not discernible in him, and that he was

entitled to every recognition, right, privilege, and immunity secured to the citizens of the United States of the white race by its constitution and laws; that on June 7, 1892, he engaged and paid for a first-class passage on the East Louisiana Railway, from New Orleans to Covington, in the same state, and thereupon entered a passenger train, and took possession of a vacant seat in a coach where passengers of the white race were accommodated; that such railroad company was incorporated by the laws of Louisiana as a common carrier, and was not authorized to distinguish between citizens according to their race, but, notwithstanding this, petitioner was required by the conductor, under penalty of ejection from said train and imprisonment, to vacate said coach, and occupy another seat, in a coach assigned by said company for persons not of the white race, and for no other reason than that petitioner was of the colored race; that, upon petitioner's refusal to comply with such order, he was, with the aid of a police officer, forcibly ejected from said coach, and hurried off to, and imprisoned in, the parish jail of *539 New Orleans, and there held to answer a charge made by such officer.
The case coming on for hearing before the supreme court, that court was of opinion that the law under which the prosecution was had was constitutional and denied the relief prayed for by the petitioner

4. *Smith v. Allwright*, 321 U.S. 649 (1944)

A claim for damages in the sum of $5,000 on the part of petitioner, a Negro citizen of the 48th precinct of Harris County, Texas, *651 for the refusal of respondents, election and associate election judges respectively of that precinct, to give petitioner a ballot or to permit him to cast a ballot in the primary election of July 27, 1940, for the nomination of Democratic candidates for the United States Senate and House of Representatives, and Governor and other state officers. The refusal is alleged to have been solely because of the race and color of the proposed voter.

The State of Texas by its Constitution and statutes provides that every person, if certain other requirements are met which are not here in issue, qualified by residence *653 in the district or county 'shall be deemed a qualified elector.'

The Democratic party on May 24, 1932, in a State Convention adopted the following resolution, which has not since been 'amended, abrogated, annulled or avoided':
'Be it resolved that all white citizens of the State of Texas who are qualified to vote under the Constitution and laws of the State shall be eligible to membership in the *657 Democratic party and, as such, entitled to participate in its deliberations.' It was by virtue of this resolution that the respondents refused to permit the petitioner to vote.

Texas is free to conduct her elections and limit her electorate as she may deem wise, save only as her action may be affected by the prohibitions of the United States Constitution or in conflict with powers **762 delegated to and exercised by the National Government. The Fourteenth Amendment forbids a state from making or enforcing any law which abridges the privileges or immunities of citizens of the United States and the Fifteenth Amendment specifically interdicts any denial or abridgement by a state of the right of

citizens to vote on account of color. Respondents appeared in the District Court and the Circuit Court of Appeals and defended on the ground that the Democratic party of Texas is a voluntary organization with members banded together for the purpose of selecting individuals of the group representing the common political beliefs as candidates in the general election. As such a voluntary organization, it was claimed, the Democratic party is free to select its own membership and limit to whites participation in the party primary. Such action, the answer asserted, does not violate the Fourteenth, Fifteenth or Seventeenth Amendment as officers of government cannot be chosen at primaries and the Amendments are applicable only to general elections where governmental officers are actually elected. Primaries, it is said, are political party affairs, handled by party not governmental officers.

It may now be taken as a postulate that the right to vote in such a primary for the nomination of candidates without discrimination by the State, like the right to vote *662 in a general election, is a right secured by the Constitution.

When primaries become a part of the machinery for choosing officials, state and national, as they have here, the same tests to determine the character of discrimination or abridgement should be applied to the primary as are applied to the general election.

The United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nulified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election. Constitutional rights would be of little value if they could be thus indirectly denied.

5. *Shelley v. Kraemer*, 334 U.S. 1 (1948)

Whether the equal protection clause of the Fourteenth Amendment inhibits judicial enforcement by state courts of restrictive covenants based on race or color is a question which this Court has not heretofore been called upon to consider.

It is well, at the outset, to scrutinize the terms of the restrictive agreemens involved in these cases. In the Missouri case, the covenant declares that no part of the *10 affected property shall be 'occupied by any person not of the Caucasian race, it being intended hereby to restrict the use of said property * * * against the occupancy as owners or tenants of any portion of said property for resident or other purpose by people of the Negro or Mongolian Race.' Not only does the restricton seek to proscribe use and occupancy of the affected properties by members of the excluded class, but as construed by the Missouri courts, the agreement requires that title of any person who uses his property in violation of the restriction shall be divested. The restriction of the covenant in the Michigan case seeks to bar occupancy by persons of the excluded class. It provides that . . . 'This property shall not be used or occupied by any person or persons except those of the Caucasian race.'

It should be observed that these covenants do not seek to proscribe any particular use of the affected properties. Use of the properties for residential occupancy, as such, is not forbidden. The restrictions of these agreements, rather, are directed toward a designated class of persons and seek to determine who may and who may not own or make use of the properties for residential purposes. The excluded class is defined wholly in terms of race or color.; 'simply that and nothing more.'

It cannot be doubted that among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment are the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of that Amendment as an essential pre-condition to the realization of other basic civil rights and liberties which the Amendment was intended to guarantee.

We have noted that previous decisions of this Court have established the proposition that judicial action is not immunized from the operation of the Fourteenth Amendment simply because it is taken pursuant to the state's common-law policy. Nor is the Amendment ineffective simply because the particular pattern of discrimination, which the State has enforced, was defined initially by the terms of a private agreement. State action, as that phrase is understood for the purposes of the Fourteenth Amendment, refers to exertions of state power in all forms. And when the effect of that action is to deny rights subject to the protection of the Fourteenth Amendment, it is the obligation of this Court to enforce the constitutional commands.

6. *Brown v. Board of Education*, 347 U.S. 483 (1954)

Class actions originating in the four states of Kansas, South Carolina, Virginia, and Delaware, by which minor Negro plaintiffs sought to obtain admission to public schools on a nonsegregated basis. On direct appeals by plaintiffs . . ., the United States Supreme Court, Mr. Chief Justice Warren, held that segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors may be equal, deprives the children of the minority group of equal educational opportunities, in contravention of the Equal Protection Clause of the Fourteenth Amendment.

Cases ordered restored to docket for further argument regarding formulation of decrees.

7. *Brown v. Board of Education*, 349 U.S. 294 (1955)

On further argument regarding formulation of decrees. . . . the Supreme Court, Mr. Chief Justice Warren, held that in proceedings to implement Supreme Court's determination, inferior courts might consider problems related to administration, arising from physical condition of school plant, school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve system of determining admission to public schools on a nonracial basis, and revision of local laws and

regulations, and might consider adequacy of any plans school authorities might propose to meet these problems and to effectuate a transition to racially nondiscriminatory school systems.

8. *Griggs v. Duke Power Company*, 401 U.S. 424 (1971)

Class action by Negro employees against employer alleging that employment practices violated Civil Rights Act. . . . The Court of Appeals . . . [held] that in absence of a discriminatory purpose, requirement of high school education or passing of a standardized general intelligence test as a condition of employment in or transfer to jobs was permitted by the Civil Rights Act, and rejecting claim that because such requirements operated to render ineligible a markedly disproportionate number of Negroes, they were unlawful under the Act unless shown to be job-related. Certiorari was granted. The Supreme Court, Mr. Chief Justice Burger, held that employer [Griggs Power] was prohibited by provisions of Act pertaining to employment opportunities from requiring a high school education or passing of a standardized general intelligence test as a condition of employment in or transfer to jobs, where neither standard was shown to be significantly related to successful job performance, both requirements operated to disqualify Negroes at a substantially higher rate than white applicants, and jobs in question formerly had been filled only by white employees as part of a long-standing practice of giving preference to whites.

Mr. Chief Justice BURGER delivered the opinion of the Court.
We granted the writ in this case to resolve the question whether an employer is prohibited by the Civil Rights Act of 1964, Title VII, from requiring a high school education *426 or passing of a standardized general intelligence test as a condition of employment in or transfer to jobs when (a) neither standard is shown to be significantly related to successful job performance, (b) both requirements operate to disqualify Negroes at a substantially higher rate than white applicants, and (c) the jobs in question formerly had been filled only by white employees as part of a longstanding practice of giving preference to whites.

The objective of Congress in the enactment of Title VII is plain from the language of the statute. It was to achieve equality of employment opportunities and remove *430 barriers that have operated in the past to favor an identifiable group of white employees over other employees. Under the Act, practices, procedures, or tests neutral on their face, and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory employment practices.

The Act proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited.

But Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation. More than that, Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question.

*433 The facts of this case demonstrate the inadequacy of broad and general testing devices as well as the infirmity of using diplomas or degrees as fixed measures of capability. History is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees. Diplomas and tests are useful servants, but Congress has mandated the commonsense proposition that they are not to become masters of reality.

Nothing in the Act precludes the use of testing or measuring procedures; obviously they are useful. What Congress has forbidden is giving these devices and mechanisms controlling force unless they are demonstrably a reasonable measure of job performance. Congress has not commanded that the less qualified be preferred over the better qualified simply because of minority origins. Far from disparaging job qualifications as such, Congress has made such qualifications the controlling factor, so that race, religion, nationality, and sex become irrelevant. What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.

9. *Ward's Cove Packaging Company v. Antonio*, 490 U.S. 642 (1989)

Former salmon cannery workers brought class action suit alleging employment discrimination on basis of race. . . . The Supreme Court, Justice White held that statistical evidence showing high percentage of nonwhite workers in employer's cannery jobs and low percentage of such workers in noncannery positions did not establish prima facie case of disparate impact in violation of Title VII.

Jobs at petitioners' Alaskan salmon canneries are of two general types: unskilled "cannery jobs" on the cannery lines, which are filled predominantly by nonwhites; and "noncannery jobs," most of which are classified as skilled positions and filled predominantly with white workers, and virtually all of which pay more than cannery positions. A class of nonwhite cannery workers at petitioners' facilities filed . . . under Title VII of the Civil Rights Act of 1964, alleging . . . that various of petitioners' hiring/promotion practices were responsible for the work force's racial stratification and had denied them employment as noncannery workers on the basis of race.

1. The Court of Appeals erred in ruling that a comparison of the percentage of cannery workers who are nonwhite and the percentage of noncannery workers who are nonwhite makes out a prima facie disparate-impact case. Rather, the proper comparison is generally between the racial composition of the at-issue jobs and the racial composition of the qualified population in the relevant labor market. . . . With respect to the skilled noncannery jobs at issue, the cannery work force in no way

reflected the pool of qualified job applicants or the qualified labor force population. Petitioners' selection methods or employment practices cannot be said to have had a disparate impact on nonwhites if *643 the absence of minorities holding such skilled jobs reflects a dearth of qualified nonwhite applicants for reasons that are not petitioners' fault. With respect to the unskilled noncannery jobs, as long as there are no barriers or practices deterring qualified nonwhites from applying, the employer's selection mechanism probably does not have a disparate impact on minorities if the percentage of selected nonwhite applicants is not significantly less than the percentage of qualified nonwhite applicants.

2. Whether the record will support a . . . disparate-impact case on some basis other than the racial disparity between cannery and noncannery workers, a mere showing that nonwhites are underrepresented in the at-issue jobs in a manner that is acceptable under the standards set forth herein will not alone suffice. Rather, the courts below must also require, as part of respondents' prima facie case, a demonstration that the statistical disparity complained of is the result of one or more of the employment practices respondents are attacking here, specifically showing that each challenged practice has a significantly disparate impact on employment opportunities for whites and nonwhites.

3. If, on remand, respondents establish a prima facie disparate-impact case with respect to any of petitioners' practices, the burden of producing evidence of a legitimate business justification for those practices will shift to petitioners, but the burden of persuasion will remain with respondents at all times.

10. *Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989)

Bidder brought suit challenging city's plan requiring prime contractors awarded city construction contracts to subcontract at least 30% of the dollar amount of each contract to one or more "Minority Business Enterprises." . . . The Supreme Court, Justice O'Connor, held that: (1) city failed to demonstrate compelling governmental interest justifying the plan, and (2) plan was not narrowly tailored to remedy effects of prior discrimination.

1. The city has failed to demonstrate a compelling governmental interest justifying the Plan, since the factual predicate supporting the Plan does not establish the type of identified past discrimination in the city's construction industry that would authorize race-based relief under the Fourteenth Amendment's Equal Protection Clause.

11. The Plan is not narrowly tailored to remedy the effects of prior discrimination, since it entitles a black, Hispanic, or Oriental entrepreneur from anywhere in the country to an absolute preference over other citizens based solely on their race. Although many of the barriers to minority participation in the construction industry relied upon by the city to justify the Plan appear to be race neutral, there is no evidence that the city considered using alternative, race-neutral means to increase minority participation in city contracting. Moreover, the Plan's rigid 30% quota rests upon the completely

> unrealistic assumption that minorities will choose to enter construction in lockstep proportion to their representation in the local population. . . . The city's only interest in maintaining a quota system rather than investigating the need for remedial action in particular cases would seem to be simply administrative convenience, which, standing alone, cannot justify the use of a suspect classification under equal protection strict scrutiny.

11. *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200 (1995)

Subcontractor that was not awarded guardrail portion of federal highway project brought action challenging constitutionality of federal program designed to provide highway contracts to disadvantaged business enterprises.

The Supreme Court, Justice O'Connor, held that: (1) subcontractor had standing to seek forward-looking declaratory and injunctive relief; (2) all racial classifications, imposed by whatever federal, state, or local governmental actor, must be analyzed by reviewing court under strict scrutiny, . . and (3) remand was required to determine whether challenged program satisfied strict scrutiny.